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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
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11 4645 LIVE OAK LLC,  
12 Plaintiff,  
13 v.  
14 JULETE McCLAIN, et al.,  
15 Defendants.  
16

**Case No. CV 18-06962-R (RAOx)**

**ORDER REMANDING ACTION  
AND DENYING APPLICATION TO  
PROCEED WITHOUT PREPAYING  
FEES OR COSTS**

17  
18 **I.**  
19 **FACTUAL BACKGROUND**

20 Plaintiff 4645 Live Oak LLC (“Plaintiff”) filed an unlawful detainer action in  
21 Los Angeles County Superior Court against Defendants Julete McClain and Does 1  
22 to 10 (“Defendants”), on or about July 19, 2018. Notice of Removal (“Removal”)  
23 and Attached Complaint (“Compl.”) and Answer, Dkt. No. 1. Defendants are  
24 allegedly occupants of real property located in Cudahy, California (“the property”).  
25 Compl. ¶¶ 3, 6. Plaintiff is the owner of the property. *Id.* ¶¶ 2-4. Plaintiff filed the  
26 unlawful detainer action seeking restitution of the property and monetary damages.  
27 *Id.* at 3.

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1 Defendant McClain filed a Notice of Removal on August 14, 2018, invoking  
2 the Court’s federal question jurisdiction. Removal at 2-3. Defendant McClain also  
3 filed an Application to Proceed Without Prepaying Fees or Costs. Dkt. No. 3.

## 4 II.

### 5 DISCUSSION

6 Federal courts are courts of limited jurisdiction, having subject matter  
7 jurisdiction only over matters authorized by the Constitution and statute. *See, e.g.,*  
8 *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377, 114 S. Ct. 1673, 128 L. Ed.  
9 2d 391 (1994). It is this Court’s duty always to examine its own subject matter  
10 jurisdiction, *see Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514, 126 S. Ct. 1235, 163 L.  
11 Ed. 2d 1097 (2006), and the Court may remand a case summarily if there is an  
12 obvious jurisdictional issue. *Cf. Scholastic Entm’t, Inc. v. Fox Entm’t Grp., Inc.*,  
13 336 F.3d 982, 985 (9th Cir. 2003) (“While a party is entitled to notice and an  
14 opportunity to respond when a court contemplates dismissing a claim on the merits,  
15 it is not so when the dismissal is for lack of subject matter jurisdiction.”) (omitting  
16 internal citations). A defendant attempting to remove an action from state to  
17 federal court bears the burden of proving that jurisdiction exists. *See Scott v.*  
18 *Breeland*, 792 F.2d 925, 927 (9th Cir. 1986). Further, a “strong presumption”  
19 against removal jurisdiction exists. *See Gaus v. Miles, Inc.*, 980 F.2d 564, 567 (9th  
20 Cir. 1992).

21 Defendant McClain asserts that this Court has subject matter jurisdiction  
22 pursuant to 28 U.S.C. §§ 1331 and 1441. Removal at 2-3. Section 1441 provides,  
23 in relevant part, that a defendant may remove to federal court a civil action in state  
24 court of which the federal court has original jurisdiction. *See* 28 U.S.C. § 1441(a).  
25 Section 1331 provides that federal “district courts shall have original jurisdiction of  
26 all civil actions arising under the Constitution, laws, or treaties of the United  
27 States.” *See id.* § 1331.

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1 Here, the Court's review of the Notice of Removal and attached Complaint  
2 makes clear that this Court does not have federal question jurisdiction over the  
3 instant matter under 28 U.S.C. § 1331. First, there is no federal question apparent  
4 from the face of the Complaint, which appears to allege only a simple unlawful  
5 detainer cause of action. *See Wescom Credit Union v. Dudley*, No. CV 10-8203  
6 GAF (SSx), 2010 WL 4916578, at \*2 (C. D. Cal. Nov. 22, 2010) ("An unlawful  
7 detainer action does not arise under federal law.") (citation omitted); *IndyMac*  
8 *Federal Bank, F.S.B. v. Ocampo*, No. EDCV 09-2337-PA (DTBx), 2010 WL  
9 234828, at \*2 (C.D. Cal. Jan. 13, 2010) (remanding an action to state court for lack  
10 of subject matter jurisdiction where plaintiff's complaint contained only an  
11 unlawful detainer claim).

12 Second, there is no merit to Defendant McClain's contention that federal  
13 question jurisdiction exists based on the Protecting Tenants at Foreclosure Act of  
14 2009 ("PTFA"). Removal at 2-3. The PTFA does not create a private right of  
15 action; rather, it provides a defense to state law unlawful detainer actions. *See*  
16 *Logan v. U.S. Bank Nat. Ass'n*, 722 F.3d 1163, 1164 (9th Cir. 2013) (affirming  
17 dismissal of the complaint because the PTFA "does not create a private right of  
18 action allowing [plaintiff] to enforce its requirements"). It is well settled that a  
19 "case may not be removed to federal court on the basis of a federal defense . . . even  
20 if the defense is anticipated in the plaintiff's complaint, and even if both parties  
21 concede that the federal defense is the only question truly at issue." *Caterpillar*  
22 *Inc. v. Williams*, 482 U.S. 386, 393, 107 S. Ct. 2425, 2430, 96 L. Ed. 318 (1987).  
23 Thus, to the extent Defendant's defenses to the unlawful detainer action are based  
24 on alleged violations of federal law, those defenses do not provide a basis for  
25 federal question jurisdiction. *See id.* Because Plaintiff's complaint does not  
26 present a federal question, either on its face or as artfully pled, the court lacks  
27 jurisdiction under 28 U.S.C. § 1331.

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**III.**

**CONCLUSION**

Accordingly, IT IS ORDERED that this case is REMANDED to the Superior Court of California, County of Los Angeles, forthwith.

IT IS FURTHER ORDERED that Defendant's Application to Proceed Without Prepaying Fees or Costs is DENIED as moot.

IT IS SO ORDERED.

DATED: August 20, 2018



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MANUEL L. REAL  
UNITED STATES DISTRICT JUDGE

Presented by:

    /S/ Rozella A. Oliver    

ROZELLA A. OLIVER  
UNITED STATES MAGISTRATE JUDGE